

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 234.6 and 2008 Iowa Acts, Senate File 2425, section 6(6), the Department of Human Services amends Chapter 65, "Food Assistance Program Administration," Iowa Administrative Code.

These amendments implement the Food, Conservation, and Energy Act of 2008 (also known as the Farm Bill). Provisions of this bill improve access to the Food Assistance program, promote efficiency of the program's operation, and simplify the program for more effective program administration. These amendments implement the following program improvements:

- Raise the minimum standard deduction that is subtracted from countable income and provide for annual inflation adjustments in future years. Effective October 1, 2008, the minimum deduction will increase from \$134 to \$144.
- Remove the cap on the dependent care deduction that is subtracted from countable income. Currently the maximum deduction is \$200 monthly for each child under the age of two and \$175 monthly for dependents aged two or older.
- Raise the minimum benefit amount for households of one or two persons from \$10 a month to 8 percent of the thrifty food plan for a household of one. The minimum benefit is estimated to be \$14 in federal fiscal year 2009, with adjustments for food inflation in later years.
- Exclude tax-deferred retirement accounts and tax-deferred education accounts from countable resources. Funds in these accounts will not make a household ineligible due to excess resources.
- Index the resource limit, currently a fixed amount, to provide for annual adjustments based on inflation. Based on the Congressional Budget Office's most recent inflation projections, the first increase in the resource limit is expected in federal fiscal year 2012 or later.
- Implement the state option of expanding simplified reporting to include households in which all adult members are elderly or disabled and have no earned income. This change moves all households that are currently subject to ten-day change reporting to the simplified reporting method.

Switching households that include seniors (aged 60 or older) and people with disabilities to simplified reporting reduces paperwork burdens on these households. Simplified reporting households are required to report only if their total gross income exceeds 130 percent of the federal poverty level for their household size or if the work hours of an able-bodied adult without dependents change to less than 20 hours per week, averaged monthly. Simplified reporting households have the option of reporting changes that may increase their benefits, and the Department is required to act on all reported changes.

Certification periods of 12 months will be assigned to households in which all adult members are elderly or disabled and have no earned income. Certification periods of six months will be assigned to all other households. However, an interview is required only once a year. Certification periods shorter than 6 or 12 months may be assigned to align the recertification date to the FIP or medical assistance review date.

The Food Assistance Interim Report (FAIR) is being eliminated. Currently households that are subject to simplified reporting must complete a FAIR in the sixth month of the certification period and a Review/Recertification Eligibility Document (RRED) every 12 months. With these amendments, these households will continue to complete a form every six months but the form will be the RRED each time.

These amendments do not provide for waivers in specified situations. The Department does not have authority to waive federal law or regulation.

The Council on Human Services adopted these amendments on August 13, 2008.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because the Food, Conservation, and Energy Act of 2008 takes effect on October 1, 2008, and all states must have changes in place by that date. There is insufficient time to obtain public comment before the September meeting of the Council on Human Services. Also,

emergency rule making is permitted by 2008 Iowa Acts, Senate File 2425, section 6(6), when necessary to meet federal requirements.

The Department also finds that these amendments confer benefits on Food Assistance applicants and recipients as described above. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments are also published herein under Notice of Intended Action as **ARC 7120B** to allow for public comment.

These amendments are intended to implement Iowa Code section 234.12.

These amendments will become effective October 1, 2008.

The following amendments are adopted.

ITEM 1. Amend rule 441—65.3(234) as follows:

441—65.3(234) Administration of program. The food assistance program shall be administered in accordance with the Food Stamp and Nutrition Act of ~~1977~~ 2008, 7 U.S.C. 2011 et seq., and in accordance with federal regulation, Title 7, Parts 270 through 283 as amended to June 19, 2006. A copy of the federal law and regulations may be obtained at no more than the actual cost of reproduction by contacting the Division of Financial, Health, and Work Supports, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, (515)281-3133.

~~This rule is intended to implement Iowa Code section 234.12.~~

ITEM 2. Amend subrule 65.5(1) as follows:

65.5(1) Identification. All households are subject to simplified reporting requirements ~~except:~~

~~a. —Households that are exempt from periodic reporting by federal statute.~~

~~b. —Households that include an able-bodied adult without dependents, as provided in 7 CFR 273.24 as amended to April 29, 2003.~~

ITEM 3. Amend subrule 65.5(3) as follows:

65.5(3) Certification periods. ~~Simplified reporting households~~ Households shall be certified ~~for 12 months.~~ as follows:

~~a. Households that have no earned income and in which all adult members are receiving family investment program (FIP) cash assistance or family medical assistance program (FMAP) related Medicaid elderly or disabled shall be assigned certification periods of 12 months.~~

b. All other households shall be assigned certification periods of six months.

c. Exceptions:

(1) A household that has unstable circumstances or that includes an able-bodied adult without dependents shall be assigned a shorter certification period consistent with the household’s circumstances, but generally no less than three months.

(2) However, a A shorter certification period of less than 12 months may be assigned at application or recertification to match the food assistance recertification date to the FIP family investment program or medical assistance annual review date.

ITEM 4. Rescind subrule 65.5(4) and adopt the following new subrule in lieu thereof:

65.5(4) Reporting responsibilities. Simplified reporting households are required to report changes as follows:

a. The household shall report if the household’s total gross income exceeds 130 percent of the federal poverty level for the household size. The household must report this change within ten days of the end of the month in which the income exceeds this level. A categorically eligible household that reports income over 130 percent of the federal poverty level and that remains eligible for benefits shall not be required to make any additional report of changes.

b. A household containing an able-bodied adult without dependents shall report any change in work hours that brings that adult below 20 hours of work per week, averaged monthly. The household must report this change within ten days of the end of the month in which the change in work hours occurs.

ITEM 5. Rescind and reserve subrules ~~65.5(5)~~**65.5(6)**.

ITEM 6. Rescind and reserve subrules ~~65.5(8)~~**65.5(9)**.

ITEM 7. Amend subrule 65.8(9) as follows:

65.8(9) Standard deduction. Each household will receive a standard deduction from income equal to 8.31 percent of the net income limit for food assistance eligibility. No household will receive an amount less than ~~\$134~~ **\$144** or more than 8.31 percent of the net income limit for a household of six members. The amount of the standard deduction is adjusted for inflation annually as directed by the Food and Nutrition Service of the U.S. Department of Agriculture.

ITEM 8. Rescind and reserve rule ~~441—65.10(234)~~.

ITEM 9. Rescind and reserve rule ~~441—65.19(234)~~.

ITEM 10. Amend subrule 65.29(4) as follows:

65.29(4) Interest income ~~for retrospectively budgeted cases~~. Prorate interest income by dividing the amount anticipated during the certification period by the number of months in the certification period.

ITEM 11. Amend subrule 65.30(2) as follows:

65.30(2) Limit for households with a disabled person Resource limit. The resource limit for a household that includes a person aged 60 or over or a disabled person is \$3000. The resource limit for other households is \$2000. These amounts are adjusted for inflation annually as directed by the Food and Nutrition Service of the U.S. Department of Agriculture.

ITEM 12. Adopt **new** subrules 65.30(7) and 65.30(8) as follows:

65.30(7) Retirement accounts. Exclude from resources the value of:

a. Any funds in a plan, contract, or account described in Sections 401(a), 403(a), 403(b), 408, 408A, 457(b), and 501(c)(18) of the Internal Revenue Code of 1986.

b. Any funds in a Federal Thrift Savings Plan account as provided in Section 8439 of Title 5, United States Code.

c. Any retirement program or account included in any successor or similar provision that may be enacted and determined to be exempt from tax under the Internal Revenue Code of 1986.

d. Any other retirement plans, contracts, or accounts determined to be exempt by the Secretary of the U.S. Department of Agriculture.

65.30(8) Education accounts. Exclude from resources the value of:

a. Any funds in a qualified tuition program described in Section 529 of the Internal Revenue Code of 1986 or in a Coverdell Education Savings Account under Section 530 of the Internal Revenue Code.

b. Any other education plans, contracts or accounts determined to be exempt by the Secretary of the U.S. Department of Agriculture.

ITEM 13. Adopt the following **new** rule 441—65.32(234):

441—65.32(234) Basis for food stamp allotments. The minimum benefit amount for all eligible one-member and two-member households shall be 8 percent of the maximum monthly allotment for a household size of one member.

ITEM 14. Amend rule 441—65.33(234) as follows:

441—65.33(234) Maximum monthly dependent Dependent care deduction. ~~Notwithstanding anything to the contrary in these rules or regulations, the maximum monthly dependent care deduction households shall be granted is \$200 for each child under two years of age and \$175 for each other~~

~~dependent.~~ Households shall be allowed a deduction for the amount of verified monthly dependent care expenses.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/10/08.